

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

COREY SUMLIN,

Defendant.

18-CR-682 (SHS)

OPINION & ORDER

SIDNEY H. STEIN, U.S. District Judge.

On June 3, 2019, this Court sentenced defendant Corey Sumlin to forty-six months of incarceration after he pleaded guilty to possessing a firearm in violation of 18 U.S.C. § 922(g). (J., ECF No. 31.) He is currently serving his sentence at the Federal Correctional Institution in Allenwood, Pennsylvania (“FCI Allenwood Medium”), and is projected to be released on August 24, 2021. (Def’s Mot. 2, ECF No. 52.)

Sumlin first filed a motion to reduce his sentence under the compassionate release statute, 18 U.S.C. § 3582(c)(1)(A), on April 16, 2020. (Def’s Mot., ECF No. 39.) The compassionate release statute allows a court to grant a sentence reduction upon a defendant’s motion for “extraordinary and compelling reasons,” provided the “defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility.” 18 U.S.C. § 3582(c)(1)(A). The Court denied that motion because there was no indication that Sumlin had even begun to pursue his administrative remedies. (Order, ECF No. 40.)

After exhausting his administrative remedies, Sumlin then re-filed the compassionate release motion on May 19, 2020. (Def’s Mot., ECF. No. 44.) The Court denied that motion, finding that Sumlin failed to demonstrate “extraordinary and compelling reasons” for a sentence reduction. (Order, ECF No. 45.) On October 13, 2020, Sumlin filed this motion for reconsideration of the Court’s denial of his May 19, 2020 motion. (Def’s Mot., ECF No. 52.)

The Court denies Sumlin’s motion for reconsideration for the same reasons it denied Sumlin’s May 15, 2020 motion for compassionate release. In considering Sumlin’s first motion, the Court noted that Sumlin relied on the contention that the impact of the COVID-19 pandemic on prisoners itself constitutes an “extraordinary and compelling reason” for a sentence reduction. (Order, ECF No. 45.) The Court found that “[a]rguments based only on a defendant’s status as an inmate during the COVID-19 pandemic and generalizations concerning the spread of COVID-19 in federal detention centers across the country have been

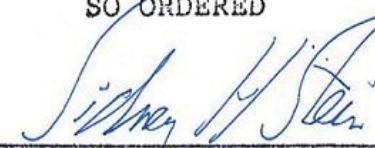
roundly rejected." Order, ECF No. 45 (quoting *United States v. Kaba*, No. 19 CR. 242 (PAC), 2020 WL 2520807, at *3 (S.D.N.Y. May 18, 2020)).

Here, Sumlin relies on the same argument and fails to present evidence of underlying health conditions—other than his status as a smoker and alleged prior asthmatic issues—that would put him at a high risk for severe illness. *See* Def.'s Suppl. Mot.; People Who Are at Higher Risk for Severe Illness, Ctrs. for Disease Control & Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last updated Sept. 11, 2020) (identifying "older adults and people of any age who have serious underlying medical conditions" as those who "might be at higher risk for severe illness from COVID-19"). According to the presentence investigation report, Sumlin, age thirty, is "generally in good physical health." (PSR ¶ 60, ECF No. 29.) Nor do the current conditions at FCI Allenwood suggest that Sumlin is at a high risk of contracting COVID-19. According to the Bureau of Prisons, out of the 656 FCI Allenwood inmates who have been tested for COVID-19, only 20 inmates are currently positive. COVID-19 Cases, Fed. Bureau Prisons, <https://www.bop.gov/coronavirus/> (last updated Oct. 22, 2020).

Accordingly, IT IS HEREBY ORDERED that Sumlin's motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(1)(A) is denied. The Clerk of Court is directed to mail a copy of this Order to defendant as follows: Corey Sumlin [69079-054], FCI Allenwood Medium, Federal Correctional Institution, P.O. Box 2000, White Deer, PA 17887.

Dated: New York, New York

October 23, 2020

SO ORDERED

SIDNEY H. STEIN
U.S.D.J.